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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,235	01/14/2004	Jeffrey K. Daniel	123018.0002.000	3258
7590	08/23/2006		EXAMINER	
Mark A. Tidwell Jackson Walker L.L.P. Suite 2100 112 E. Pecan Street San Antonio, TX 78205-1521			PANG, ROGER L	
			ART UNIT	PAPER NUMBER
			3681	
			DATE MAILED: 08/23/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/757,235	DANIEL, JEFFREY K.
	Examiner Roger L. Pang	Art Unit 3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 July 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11, 16 is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

The following action is in response to the RCE filed for application 10/757,235 on July 17, 2006.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 5-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Volny '767 in view of Brandt '256. With regard to claims 1 and 3, Volny teaches a swivel divider gearbox for agricultural equipment, said system comprising a first gearbox having an input shaft 23 and an output shaft (connected to 25; substantially vertical) defined along a first axis, wherein said input shaft forms an angle with said output shaft (Fig. 2), the axis of the output shaft is not in the same plane as the axis of the input shaft (Fig. 2); a second gearbox having an input shaft (connected to 25) and at least two output shafts (connected to 12 and 12), wherein the input shaft of the second gearbox forms an angle to the output shafts of the second gearbox (Fig. 2), wherein the axis of the input shaft of the second gearbox is not in the same plane as the axis of at least one of the output shafts (Fig. 2); wherein the first and second gearboxes are capable of axial rotation relative to one another about the first axis (Abstract; Fig. 2). Volny is silent as to the specific structure of the second gearbox and the output shafts. Brandt teaches a vehicle with a second gearbox 40, a second input shaft 35, and second output shafts 42/56 wherein the input

shaft of the second gearbox is perpendicular to the output shafts of the second gearbox. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Volny to employ the differential second gearbox and output shafts in view of Brandt, in order to allow differential turning of the output shafts during maneuvers such as turning. With regard to claims 2 and 9, Volny teaches the gearbox, wherein the output shaft of the first gearbox is the input shaft of the second gearbox (Fig. 2). With regard to claims 5 and 6, Volny teaches the system, wherein the axis of the input shaft of the first gearbox and the axis of the output shaft of the first gearbox are substantially perpendicular to one another (Fig. 2). With regard to claim 7, Volny teaches the gearbox, wherein the plane of the input shaft of the first gearbox is substantially parallel with the plane of at least one of the output shafts of the second gearbox (Fig. 2). With regard to claim 8, Volny teaches the gearbox, wherein the plane of the input shaft of the first gearbox is offset from the plane of at least one of the output shafts of the second gearbox (Fig. 2). With regard to claim 10, Volny teaches the gearbox, wherein the output shaft of the first gearbox is coupled to the input shaft of the second gearbox (integrally linked; Fig. 2).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Volny in view of Brandt, as applied to claim 3 above, and in further view of McLean '271. Volny teaches the system, wherein the input shaft 23 of the first gearbox extends from a first side, and the output shaft (connected to 25) extends from a second side. Volny lacks the specific teaching of a gearbox housing first the first gearbox. McLean teaches a gearbox system, wherein a first gearbox comprises a housing 42 having a first face and a second, different face and wherein an input shaft 44 extends from said first face an output shaft 48 extends from said second face. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify

Volny to employ a housing for the first gearbox in view of McLean in order to protect the gearbox from corrosives and other elements.

*Allowable Subject Matter*

Claims 11 and 16 are allowed.

*Response to Arguments*

Applicant's arguments with respect to claims 1 and 3 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Adams, Werner and Frumholtz have been cited to show similar transmissions.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses

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requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on \_\_\_\_\_ (Date)

Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Roger L Pang  
Primary Examiner  
Art Unit 3681

August 18, 2006